



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF F-M-R-Z-

DATE: JUNE 13, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a production engineer, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). After a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, finding that the Petitioner qualified for the underlying classification, but that she had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

On appeal, the Petitioner submits a brief and further evidence, and contends that she is eligible for a national interest waiver under the *Dhanasar* framework.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

(2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –

(A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of job offer –

(i) National interest waiver. . . . [T]he Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884.<sup>1</sup> *Dhanasar* states that after EB-2 eligibility has been established, USCIS may, as a matter of discretion, grant a national interest waiver when the below prongs are met.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual's education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.

The third prong requires the petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the

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<sup>1</sup> In announcing this framework, we vacated our prior precedent decision, *Matter of New York State Department of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998) (*NYSDOT*).

foreign national's qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the foreign national's contributions; and whether the national interest in the foreign national's contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, indicate that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.<sup>2</sup>

## II. ANALYSIS

The Director found that the Petitioner qualifies for the underlying visa classification, and the record corroborates her qualification as a member of the professions holding an advanced degree.<sup>3</sup> The sole issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

Since January 2017, the Petitioner has worked as a production supervisor and most recently as an engineering manager for [REDACTED] a subsidiary of [REDACTED].<sup>4</sup> From December 2004 until March 2016, she was employed as body shop welding engineer, body shop superintendent, vehicle operation manufacturing manager, and production manager for [REDACTED] of Venezuela.

The Petitioner states that she intends "to continue her career as a Production Engineer, in the field of Automobile Manufacturing." She contends that she "will work for U.S. automobile companies as an engineer, with the goal to become the Lea[d] Manufacturing Director within the next few years."<sup>5</sup> In addition, the Petitioner explains that her work will involve overseeing "implementation of manufacturing processes to maintain proper product functionality, as well as cost efficiency. I am responsible for leading and directing the work of manufacturing engineers and product engineers, and ensuring the engineering team and other manufacturing departments work together cohesively." The Petitioner further notes that she "was offered a position as Body Lead Supervisor Production with [REDACTED] at [its] [REDACTED] within Manufacturing," but she did not accept this position.<sup>6</sup> Nonetheless, we find that the Petitioner's proposed automotive production

<sup>2</sup> See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

<sup>3</sup> The Petitioner received a mechanical engineering degree from [REDACTED] in 1997 and a master's degree in business administration from the [REDACTED] in 2008. The record includes an academic credentials evaluation indicating that these Venezuelan degrees are the equivalent of a bachelor of science degree in mechanical engineering and a master of business administration degree from an accredited U.S. college or university. See 8 C.F.R. § 204.5(k)(3)(i)(A).

<sup>5</sup> We note that the Petitioner indicates that she has "already been invited to work as the Engineering Manager for [REDACTED] and that she intends to work toward the position of lead manufacturing director there, but she does not explain how this position relates to automobile manufacturing.

<sup>6</sup> The record includes [REDACTED] June 2017 letter offering her the position.

engineering work has substantial merit, as it is aimed at supporting a future employer's manufacturing processes and output.

To satisfy the national importance requirement, the Petitioner must demonstrate the "potential prospective impact" of her proposed work. The record includes various articles about the U.S. automotive industry, its benefit to our nation, and challenges facing this industry. These articles highlight the industry's scale and its positive economic contributions, including long-term sustainable job creation.<sup>7</sup> Additionally, some of the articles mention a shortage of qualified workers in the U.S. automotive manufacturing industry. While the aforementioned articles discuss challenges facing the U.S. automotive industry and this industry's positive economic impact on our country, they are not sufficient to demonstrate the Petitioner's proposed work as a production engineer has broader implications for her field, the automotive manufacturing industry, or the U.S. economy. In determining national importance, the relevant question is not the importance of the fields or industries in which the individual will work; instead we focus on the "the specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889.

In the present matter, while the appeal brief references the production capacity of [REDACTED] and its contribution to the U.S. economy, we note that the Petitioner is presently working as an engineering manager for [REDACTED] and has not shown she will be working at the specified plant or at [REDACTED]. Regardless, the scope of [REDACTED] production alone is not sufficient to demonstrate the Petitioner's proposed endeavor's national importance. Rather, we must examine the prospective impact of the Petitioner's specific endeavor rather than the scale of this plant's entire operations.

The job offer letter from [REDACTED] stated that the Petitioner would be employed as "Body Lead Supervisor Production," but this letter does not provide sufficient details about the capacity in which she would work so as to demonstrate the potential implications of her proposed endeavor.<sup>8</sup> The Petitioner has not established that the economic benefits of her proposed work for [REDACTED] or any other U.S. automobile manufacturer stand to extend beyond her prospective employer and its operations at a level sufficient to establish the national importance of her proposed endeavor.<sup>9</sup> While the Petitioner emphasizes the positive effects of an automotive assembly plant on job creation and the U.S. economy, she has not demonstrated that her proposed engineering work for a single company and its manufacturing projects stands to impact the automotive industry, the

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<sup>7</sup> For example, a November 2014 Center for Automotive Research report, entitled "Accelerating the Growth of the U.S. Automotive Manufacturing Industry at Home, Rather than Abroad," states that "each job a vehicle assembly plant produces eleven additional jobs in the U.S. economy." Furthermore, this report indicates that automotive investment is "of critical economic value not just to the community and state hosting the investment, but to the entire region around the assembly plant, typically spanning several states as part of the overall supply chain."

<sup>8</sup> As the Petitioner is applying for a waiver of the job offer requirement, she need not have a job offer from a specific employer, but information about the nature of the proposed endeavor is necessary for us to determine whether it has national importance.

<sup>9</sup> In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

production engineering field, or our nation's economy more broadly. Accordingly, the Petitioner has not established that her proposed endeavor has national importance.

As the documentation in the record does not establish the national importance of her proposed endeavor(s) as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.

### III. CONCLUSION

As the Petitioner has not met the requisite three prongs set forth in the *Dhanasar* analytical framework, we find that she has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.

Cite as *Matter of F-M-R-Z-*, ID# 1263763 (AAO June 13, 2018)